



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 30, 1995

Ms. Christine T. Rodriguez
Staff Attorney
Legal and Compliance, MC110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR95-1150

Dear Ms. Rodriguez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 22011.

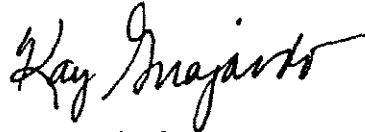
The Texas Department of Insurance (the "department") received an open records request for information that you contend may be withheld from the public pursuant to the Open Records Act, section 552.103(a) of the Government Code. To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 588 (1991). In this instance you have made the requisite showing that the requested information relates to reasonably anticipated litigation for purposes of section 552.103(a). The requested records may therefore be withheld.¹

You also raise section 552.111, which excepts interagency and intraagency memoranda, but only to the extent that they contain advice, opinion, or recommendation intended for use in the governmental entity's policymaking process. Open Records Decision No. 615 (1993). This exception does not protect facts or written observations of facts. *See id.* We have applied these principles for protection under section 552.111 to the documents you enclosed, and marked them accordingly.

¹We note that if the opposing parties in the anticipated litigation have seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982). In addition, the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Kay Guajardo". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 22011

Enclosures: Marked documents

cc: Mr. James Whyburn
8692-B Skillman, #608
Dallas, Texas 75243
(w/o enclosures)